

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

Shree Shiva, LLC,  
Plaintiff,  
v.  
City of Redding, et al.,  
Defendants.

No. 2:21-cv-00211-JAM-KJN

**ORDER GRANTING DEFENDANTS CITY  
OF REDDING'S, JAMES WRIGHT'S,  
DEBORAH WRIGHT'S AND BRENT  
WEAVER'S MOTION TO DISMISS**

I. ORDER

Plaintiff Shree Shiva LLC, the former owner of the Americana Lodge in Redding, brought this action against Defendants regarding the City's pursuit of nuisance abatement proceedings against the motel property.<sup>1</sup> See generally Compl., ECF No. 1. Specifically, Plaintiff brought claims for: (1) violation of its substantive due process rights; (2) violation of its equal protection rights; (3) an unconstitutional taking of its property; (4) fraud; and (5) punitive damages against all Defendants. Id. Additionally, Plaintiff brought a claim for breach of fiduciary duty against Defendant Richardson Griswold,

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<sup>1</sup> This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for August 10, 2021.

1 who is not a part of the present motions. Id. The City of  
2 Redding, James Wright, Debra Wright and Brent Weaver moved to  
3 dismiss all the claims against them. See City's and James  
4 Wright's Mot to Dismiss ECF No. 7; Debra Wright's and Brent  
5 Weaver's Mot. to Dismiss, ECF No. 14. Plaintiff filed  
6 oppositions to these motions. See Opp'n to City's and James  
7 Wright's Mot., ECF No. 25; Opp'n to Debra Wright's and Brent  
8 Weaver's Mot., ECF No. 24. However, all of Plaintiff's legal  
9 arguments exceeded the Court's page limit on opposition memoranda  
10 and the Court has not read or considered these arguments. See  
11 id.; see also Order re Filing Requirements, ECF No. 3-2.

12 Accordingly, these motions are treated as unopposed and the Court  
13 GRANTS Defendants City of Redding's, James Wright's, Debra  
14 Wright's and Brent Weaver's Motions to Dismiss. The only  
15 question is whether Plaintiff should be given leave to amend.

16 The Court finds amendment would be futile for Plaintiff's  
17 federal claims since the statute of limitations has expired. For  
18 actions under 42 U.S.C. § 1983, courts apply the forum state's  
19 statute of limitations for personal injury actions. Jones v.  
20 Blanas, 393 F.3d 918, 927 (9th Cir. 2004). California has a two-  
21 year statute of limitations for personal injury actions. Cal.  
22 Civ. Proc. Code § 335.1. Plaintiff's causes of action accrued on  
23 March 22, 2016, when the receiver took possession and control of  
24 the property. See Maldonado v. Harris, 370 F.3d 945, 955 (9th  
25 Cir. 2004) (explaining that federal law determines when a civil  
26 rights claim accrues and under federal law a claim accrues when  
27 the plaintiff knows or has reason to know of the injury which is  
28 the basis of the action); Compl. ¶ 75. Plaintiff filed the

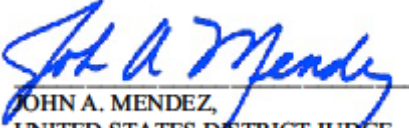
1 instant action on February 2, 2021, more than two years after the  
2 causes of actions accrued. See generally Compl. Thus,  
3 Plaintiff's § 1983 claims are time barred.

4 Amendment of Plaintiff's state law fraud claim is also  
5 futile as it is precluded by the California Government Claims  
6 Act. See Robinson v. Alameda County, 875 F.Supp.2d 1029, 1043  
7 (N.D. Cal. 2012) ("Before a person can sue a [California] public  
8 entity or public employee for money damages for actions taken  
9 within the scope of the person's employment, he or she must first  
10 file a government claim pursuant to the CGCA.") Plaintiff  
11 effectively concedes this point and makes no argument that it can  
12 allege facts showing compliance. Tajeda-Puentes v. Count of  
13 Sacramento, No. 2:15-cv-00870-KJM-KJN, 2016 WL 1756958, at \*2  
14 (E.D. Cal. May 3, 2016) ("By not addressing an argument that a  
15 defendant raises in a motion to dismiss, a plaintiff implicitly  
16 concedes dismissal of its claim is appropriate.")

17 Because the Court finds amendment would be futile, the Court  
18 GRANTS Defendants the City of Redding's, James Wright's, Debra  
19 Wright's and Brent Weaver's Motions to Dismiss all claims against  
20 them WITH PREJUDICE. See Deveraturda v. Globe Aviation Sec.  
21 Servs., 454 F.3d 1043, 1046 (9th Cir. 2006) (explaining a  
22 district court need not grant leave to amend where amendment  
23 would be futile).

24 IT IS SO ORDERED.

25 Dated: August 31, 2021

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JOHN A. MENDEZ,  
UNITED STATES DISTRICT JUDGE